

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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JACK A. CLAYBORNE,

Plaintiff,

v.

Case No. 22-cv-133-pp

DALE SCHMIDT  
and JOHN or JANE DOES,

Defendants.

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**ORDER DISMISSING CASE WITHOUT PREJUDICE  
UNDER FED. R. CIV. P. 41(a)(2)**

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On June 15, 2023, the court issued an order staying this case until the plaintiff notified the court that he had returned to McCreary U.S. Penitentiary and was able to litigate it. Dkt. No. 34. On September 11, 2023, the court received notification from the plaintiff that he had returned to McCreary, but he did not say whether he was able to resume the litigation. Dkt. No. 36. On October 30, 2023, the court received a letter from the plaintiff dated October 25, 2023, in which he says that he “wishes to withdraw himself from case 22-cv-133.” Dkt. No. 38 at 2. He also asks that “this case be taken off Fastase [sic] and Lexis Nexis.” Id.

The court construes the plaintiff’s statement that he wishes to “withdraw himself” from this case as a motion to dismiss it. Under Federal Rule of Civil Procedure 41, the plaintiff may voluntarily dismiss a case, although sometimes a court order is required depending on the circumstances and the posture of the case when he requests dismissal. Fed. R. Civ. P. 41(a). Because the

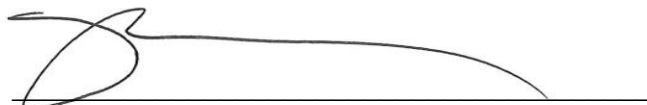
defendants have answered the complaint and have not stipulated to dismissal, the plaintiff needs a court order to dismiss this lawsuit. Fed. R. Civ. P. 41(a)(1)(A). In these circumstances, Rule 41(a)(2) governs; that rule states that “an action may be dismissed at the plaintiff’s request only by court order, on terms that the court considers proper.” Fed. R. Civ. P. 41(a)(2). The rule also states that such a dismissal is without prejudice. Id.

The court finds that dismissal without prejudice is proper and will grant the plaintiff’s request to dismiss the lawsuit. The court does not have the authority to remove this case from legal research websites, such as Fastcase Lexis Nexis.

The court **ORDERS** that this case is **DISMISSED WITHOUT PREJUDICE**. The clerk will enter judgment accordingly.

Dated in Milwaukee, Wisconsin this 6th day of November, 2023.

**BY THE COURT:**

A handwritten signature in black ink, appearing to read 'P. Pepper', is written over a horizontal line.

**HON. PAMELA PEPPER**  
**Chief United States District Judge**